

REMARKS

Remarks addressing Notice of Non-Compliant Amendment

In the Notice of Non-Compliant Amendment mailed May 16, 2007, the Examiner cites 37 C.F.R. § 1.121 or 1.4 and asserts that the “Response to Restriction Requirement” filed February 28, 2007 does not provide each claim with the proper status identifier (e.g., non-elected claims must be labeled – withdrawn).

Applicants respectfully submit that the Response to Restriction Requirement filed on February 28, 2007 was argued with traverse. Therefore, Applicants made an election to the claims to be examined, but did not withdraw any claims pursuant to 37 C.F.R. § 1.142 which recites “claims to the invention or inventions not elected, if not canceled, are nevertheless withdrawn from further consideration by the examiner by the election, subject however to reinstatement in the event the requirement for restriction is withdrawn or overruled” (Emphasis added).

Accordingly, Applicants have labeled all pending claims with the status identifier “Original” in this Response to the Notice of Non-Compliant Amendment. For the Examiner’s convenience, the Remarks previously submitted in the Response to Restriction Requirement are reproduced below.

Remarks previously submitted in Response to Restriction Requirement filed February 28, 2007

The Examiner has imposed a restriction requirement, and requested that Applicants elect one of two identified groups of claims for prosecution in connection with the present application.

The groups of claims are as follows:

- I. Claims 1-12 and 16, drawn to molding method, classified in class 264, subclass 272.11+.

II. Claims 13-15, drawn to mold for encapsulating, classified in class 425, subclass 542+.

The Examiner alleges that Groups I and II are related as process and apparatus for its practice.

Applicants' Election

Applicants respectfully elect Group I, Claims 1-12 and 16, drawn to molding method, and including linking claims 17-18, with traverse. Applicants reserve the right to file a divisional application for the non-elected claims during the pendency of this application.

No Serious Burden On Examiner

With respect to Applicant's traversal, Applicant respectfully directs the Examiner's attention to M.P.E.P. § 803 which states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine on the merits, even though it includes claims too distinct or independent invention."

Emphasis Added.

There are two criteria for a proper requirement for restriction. The invention should be independent or distinct, and

"2) there must be a serious burden on the Examiner if a restriction is not required.

See M.P.E.P. §803.092, 806.04 A through J, 808.01(a) and 808.02."

As evidence of undue burden, the Examiner has listed that class 264/subclass 272.11+ is to be searched for Group I and class 425/subclass 542+ is to be search for Group II. In view of: i) the likelihood that a significant portion of the patents belonging in class 264/subclass 272.11+ would be classified in class 425/subclass 542+; and ii) the fact that the computer searching software used by the Examiner enables the Examiner to combine the search for patents in multiple subclasses without having to view duplicates. The search of extra subclass(es) would not place any undue burden upon the Examiner to consider claims 1-18.

Linking Claims

By this reply, Applicants submit that the application includes linking claims 17 and 18 and should be included with the elected invention. Linking claims 17 and 18 link independent claims 1 and 13 and independent claims 5 and 13. The Examiner is kindly reminded that the linking claims must be examined with the invention elected, and should any linking claim be allowed, the restriction requirement must be withdrawn.

Any claim(s) directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim must be rejoined and should be fully examined for patentability. Where such withdrawn claims have been canceled by Applicant pursuant to the Restriction Requirement, upon the allowance of the linking claim(s), the Examiner must notify applicant that any canceled, nonelected claim(s) which depends from or includes all the limitations of the allowable linking claim may be reinstated by submitting the claim(s) in an Amendment. Upon entry of the Amendment, the amended claim(s) will be fully examined for patentability. See MPEP § 809.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Erin G. Hoffman, Reg. No. 57,752, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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